

AMENDED IN ASSEMBLY JULY 6, 1999

AMENDED IN SENATE APRIL 27, 1999

SENATE BILL

No. 567

Introduced by Senator Speier
(Coauthors: Senators Figueroa and Murray)
(Coauthor: Assembly Member Longville)

February 19, 1999

An act to amend Sections 12810, 27360, 27360.5, 27361, ~~and 27363 of, and to add Section 27362.5 to, 27363, and 27365 of the~~ Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 567, as amended, Speier. Vehicles: child passenger restraint system: seatbelts.

(1) ~~It~~ *Under existing law, it* is unlawful for any parent or legal guardian, when present in a motor vehicle, as defined, to permit his or her child or ward who is less than 4 years of age or weighs less than 40 pounds to be transported on the highway in the vehicle without using a specified child passenger restraint system. Existing law specifies the fines for a violation of this prohibition, provides for the allocation of those fines that are collected in accordance with a specific schedule, and provides that the fines may be waived *by the court* if the defendant establishes that he or she is economically disadvantaged.

This bill, *instead, would require any parent or legal guardian to secure the child or ward who is less than 6 years of age in that child passenger restraint system. In addition, the*

bill would increase the fines ~~specified above~~ *for violating this provision.*

The bill, in addition to the authority to waive the fines ~~and~~, would authorize the ~~finer to be reduced,~~ *court to reduce the fines* with respect to persons not previously convicted within a 36-month period of the offense or the offense described in ~~paragraph~~ (2) *below*. The bill would require persons subject to a reduced fine to attend an education program, and would allow the court to require other persons convicted of the offense to attend the education program. The bill would make certain conforming changes.

(2) Under existing law, it is unlawful for any parent or legal guardian, when present in a motor vehicle, as defined, to permit his or her child or ward who is between 4 and 16 years of age to be transported on the highway in the vehicle without using a safety belt.

This bill, instead, would require any parent or legal guardian to secure the child or ward who is less than 6 years of age in a specified child passenger restraint system. In addition, the bill would authorize the court to reduce or waive the fines with respect to persons not previously convicted within a 36-month period of the offense described above. The bill would authorize the court to order a person who is convicted of violating the above to attend an education program. The bill would also require fines collected for violating this prohibition to be allocated in accordance with a specified schedule. Because this would increase the duties imposed on local entities, this bill would impose a state-mandated local program.

(3) Existing law exempts from the requirements described in ~~paragraphs~~ (1) and (2) *above* regarding the use of seatbelts and child passenger restraint systems on children, instances involving the transportation of children in emergencies.

This bill would limit the exemption to life-threatening emergencies and to children who are at least one year of age. The bill would thereby expand the scope of existing crimes, and would create a state-mandated local program.

The bill would make a corresponding change.

(4) Existing law authorizes a court to exempt from the child passenger restraint system requirements any child for

whom it is determined that the use of the system would be impractical by reason of physical unfitness, medical condition, or size. The court is authorized to require proof of those conditions.

This bill, additionally, would authorize the court to require proof that an appropriate special needs child passenger restraint system is not available.

The bill would authorize a child weighing more than 40 pounds to be transported in the backseat of a vehicle while wearing only a lap safety belt when the backseat of the vehicle is not equipped with a combination lap and shoulder safety belt.

~~(5) Existing law prohibits any manufacturer, wholesaler, or retailer to sell, offer for sale, or install in any motor vehicle any child passenger restraint system that does not conform to all applicable federal motor vehicle safety standards on the date of sale or installation.~~

~~This bill would prohibit any person from selling or offering for sale any used child passenger restraint system. Because a violation of this prohibition would be an infraction under the Vehicle Code, the bill would impose a state-mandated program by creating a new crime.~~

~~(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12810 of the Vehicle Code is
2 amended to read:
3 12810. In determining the violation point count, the
4 following shall apply:
5 (a) Any conviction of failure to stop in the event of a
6 traffic accident in violation of Section 20001 or 20002 shall
7 be given a value of two points.
8 (b) Any conviction of a violation of Section 23152 or
9 23153 shall be given a value of two points.
10 (c) Any conviction of reckless driving shall be given a
11 value of two points.
12 (d) (1) Any conviction of a violation of subdivision
13 (c) of Section 192 of the Penal Code, or of Section 2800.2
14 or 2800.3, subdivision (b) of Section 21651, subdivision (b)
15 of Section 22348, subdivision (a) of Section 23109,
16 subdivision (c) of Section 23109, or Section 31602 of this
17 code, shall be given a value of two points.
18 (2) Any conviction of a violation of subdivision (a) or
19 (b) of Section 23140 shall be given a value of two points.
20 (e) Except as provided in subdivision (g), any other
21 traffic conviction involving the safe operation of a motor
22 vehicle upon the highway shall be given a value of one
23 point.
24 (f) Any traffic accident in which the operator is
25 deemed by the department to be responsible shall be
26 given a value of one point.
27 (g) (1) A violation of paragraph (1), (2), (3), or (5)
28 of subdivision (b) of Section 40001 shall not result in a
29 violation point count being given to the driver if the
30 driver is not the owner of the vehicle.
31 (2) Any conviction of a violation of subdivision (a) of
32 Section 21116, Section 21207.5, 21708, 21710, 21716, 23120,
33 24800, or 26707 shall not be given a violation point count.
34 (3) A violation of Section 23136 shall not result in a
35 violation point count.
36 (h) A conviction for only one violation arising from
37 one occasion of arrest or citation shall be counted in

1 determining the violation point count for the purposes of
2 this section.

3 (i) Any conviction of a violation of Section 14601,
4 14601.1, 14601.2, 14601.3, or 14601.5 shall be given a value
5 of two points.

6 (j) Any conviction of a violation of Section 27360 or
7 27360.5 ~~within a 37-month period~~ shall be given a value of
8 one point.

9 SEC. 2. Section 27360 of the Vehicle Code is amended
10 to read:

11 27360. (a) No parent or legal guardian, when present
12 in a motor vehicle, as defined in Section 27315, shall
13 permit his or her child or ward under the age of ~~four~~
14 ~~years, regardless of weight, or weighing less than 40~~
15 ~~pounds, regardless of age, to be transported upon a six~~
16 ~~years to be transported upon a~~ highway in the motor
17 vehicle without providing and properly ~~using, for each~~
18 ~~securing the~~ child or ward, in a child passenger restraint
19 system meeting applicable federal motor vehicle safety
20 standards.

21 (b) No driver shall transport on a highway any child
22 ~~under four years of age, regardless of weight, or weighing~~
23 ~~less than 40 pounds, regardless of age, in a motor vehicle,~~
24 ~~under six years of age in a motor vehicle,~~ as defined in
25 Section 27315, without providing and properly securing
26 the child in a child passenger restraint system meeting
27 applicable federal motor vehicle safety standards. This
28 subdivision does not apply to a driver if the parent or legal
29 guardian of the child is also present in the vehicle and is
30 not the driver.

31 (c) (1) A first offense under this section is punishable
32 by a fine of one hundred dollars (\$100), except that the
33 court may ~~waive or reduce~~ *reduce or waive* the fine if the
34 defendant establishes to the satisfaction of the court that
35 he or she is economically disadvantaged, has not had a
36 previous conviction for a violation of this section or
37 subdivision (c) of Section 27360.5 within 36 months of the
38 recent violation, and the court, instead, refers the
39 defendant to a community education program that
40 includes, but is not limited to, ~~demonstration of~~ *education*

1 on the proper installation and use of child passenger
2 restraint systems for children of all ages, ~~and provides~~
3 ~~economically disadvantaged families with a child~~
4 ~~passenger restraint low cost purchase or loaner program~~
5 ~~ages, and provides certification to the court of completion~~
6 ~~of that program.~~ Upon completion of the program, the
7 defendant shall provide proof of participation in the
8 ~~program, that includes an inspection of a child passenger~~
9 ~~restraint system that meets applicable federal safety~~
10 ~~standards program.~~ If an education program on the
11 proper installation and use of a child passenger restraint
12 system is not available within 50 miles of the residence of
13 the defendant, the requirement to participate in that
14 program shall be waived. If the fine is paid, waived, or
15 reduced, the court shall report the conviction to the
16 department pursuant to Section 1803.

17 The court may, at its discretion, require any defendant
18 described under this section to attend an education
19 program that includes demonstration of proper
20 installation and use of child passenger restraint systems
21 and provides certification to the court that the defendant
22 has presented for inspection a child passenger restraint
23 system that meets applicable federal safety standards.

24 (2) A second or subsequent offense under this section
25 is punishable by a fine of two hundred fifty dollars (\$250),
26 no part of which may be waived by the court.

27 (d) Notwithstanding any other provision of law, the
28 fines collected for a violation of this section shall be
29 allocated as follows:

30 (1) Sixty percent to health departments of local
31 jurisdictions, as defined in Section 16700 of the Welfare
32 and Institutions Code, where the violation occurred, to be
33 used for a community education program that includes,
34 but is not limited to, demonstration of the installation of
35 a child passenger restraint system for children of all ages
36 and also assists economically disadvantaged families in
37 obtaining those restraint systems through low-cost
38 purchases or loans. The county or city health department
39 shall designate a coordinator to facilitate the creation of
40 a special account and to develop a relationship with the

1 municipal court system to facilitate the transfer of funds
2 to the program. The county or city may contract for the
3 implementation of the program. Prior to obtaining
4 possession of a child passenger restraint system pursuant
5 to this section, a person shall attend an education
6 program that includes demonstration of proper
7 installation and use of child passenger restraint systems.

8 As the proceeds from fines become available, county or
9 city health departments shall prepare and maintain a
10 listing of all child passenger restraint low-cost purchase or
11 loaner programs in their counties, including a semiannual
12 verification that all programs listed are in existence. Each
13 county or city shall forward the listing to the Office of
14 Traffic Safety in the Business, Transportation and
15 Housing Agency and the courts, birthing centers,
16 community child health and disability prevention
17 programs, county clinics, prenatal clinics, women,
18 infants, and children programs, and county hospitals in
19 that county, who shall make the listing available to the
20 public. The Office of Traffic Safety shall maintain a listing
21 of all of the programs in the state.

22 (2) Twenty-five percent to the county or city for the
23 administration of the program.

24 (3) Fifteen percent to the city, to be deposited in its
25 general fund except that, if the violation occurred in an
26 unincorporated area, this amount shall be allocated to the
27 county for purposes of paragraph (1).

28 SEC. 3. Section 27360.5 of the Vehicle Code is
29 amended to read:

30 27360.5. (a) No parent or legal guardian, when
31 present in a motor vehicle, as defined in Section 27315,
32 may permit his or her child or ward who is ~~four~~ six years
33 of age or older ~~but less than 16 years of age and weighs 40~~
34 ~~pounds or more~~ to be transported upon a highway in the
35 motor vehicle without providing and properly ~~using, for~~
36 ~~each~~ *securing the* child or ward; *in* an appropriate child
37 passenger restraint system or safety belt meeting
38 applicable federal motor vehicle safety standards.

39 (b) No driver shall transport on a highway any child
40 who is ~~four~~ six years of age or older ~~but less than 16 years~~

~~1 of age and weighs 40 pounds or more in a motor vehicle,~~
~~2 as defined in Section 27315, without providing and~~
~~3 properly using a securing the child in a child passenger~~
~~4 restraint system or safety belt meeting applicable federal~~
5 motor vehicle safety standards. This subdivision does not
6 apply to a driver if the parent or legal guardian of the
7 child is also present in the vehicle and is not the driver.

8 (c) (1) A first offense under this section is punishable
9 by a fine of one hundred dollars (\$100), *except that the*
10 *court may reduce or waive the fine if the defendant*
11 *establishes to the satisfaction of the court that he or she*
12 *is economically disadvantaged, has not had a previous*
13 *conviction of violating this section within 36 months of*
14 *the recent violation, and the court, instead, refers the*
15 *defendant to a child restraint education program that*
16 *includes, but is not limited to, demonstration of the*
17 *proper installation and use of child passenger restraint*
18 *systems for children of all ages, and provides*
19 *economically disadvantaged families with a child*
20 *passenger restraint low-cost purchase or loaner program.*
21 *Upon completion of the program, the defendant shall*
22 *provide proof of participation in the program that*
23 *includes an inspection of a child passenger restraint*
24 *system that meets applicable federal safety standards. If*
25 *an education program on the proper installation and use*
26 *of a child passenger restraint system is not available*
27 *within 50 miles of the residence of the defendant, the*
28 *requirement to participate in that program shall be*
29 *waived. If the fine is paid, waived, or reduced, the court*
30 *shall report the conviction to the department pursuant to*
31 *Section 1803.*

32 The court may, at its discretion, require any defendant
33 punishable under this paragraph to attend an education
34 program that includes demonstration of the proper use of
35 occupant restraint systems for children of all ages.

36 (2) A second or subsequent offense under this section
37 is punishable by a fine of two hundred fifty dollars (\$250),
38 no part of which may be waived by the court.

(d) Notwithstanding any other provision of law, the fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to county or city health departments where the violation occurred, to be used for an education program that includes, but is not limited to, the demonstration of proper installation and use of child passenger restraint systems for children of all ages and provides child restraints for loan or low-cost purchase.

(2) Twenty-five percent to the county or city for the administration of the program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

SEC. 4. Section 27361 of the Vehicle Code is amended to read:

27361. Any law enforcement officer reasonably suspecting a violation of Section 27360 or 27360.5, or both of those sections, may stop any vehicle transporting a child appearing to the officer to be within the age or weight specified in Section 27360 or 27360.5. The officer may issue a notice to appear for a violation of Section 27360 or 27360.5.

~~SEC. 5. Section 27362.5 is added to the Vehicle Code, to read:~~

~~27362.5. No person may sell or offer for sale any used child passenger restraint system.~~

~~SEC. 6.~~

SEC. 5. Section 27363 of the Vehicle Code is amended to read:

27363. (a) The court may exempt from the requirements of this article any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size. The court may require satisfactory proof of the child's physical unfitness, medical condition, or size and that an appropriate special needs child passenger restraint system is not available.

(b) In case of a life-threatening emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available and the child is at least one year of age, a child may be transported without the use of that system, but the child shall be secured by a seatbelt.

(c) A child weighing more than 40 pounds may be transported in the backseat of a vehicle while wearing only a lap safety belt when the backseat of the vehicle is not equipped with a combination lap and shoulder safety belt.

~~SEC. 7.—~~

SEC. 6. Section 27365 of the Vehicle Code is amended to read:

27365. (a) (1) Every car rental agency in California shall inform each of its customers of the provisions of Section 27360 by posting, in a place conspicuous to the public in each established place of business of the agency, a notice not smaller than 15 inches by 20 inches which states the following:

“CALIFORNIA LAW REQUIRES ALL CHILDREN UNDER THE AGE OF 4, ~~REGARDLESS OF WEIGHT,~~ ~~OR WEIGHING LESS THAN 40 POUNDS,~~ ~~REGARDLESS OF AGE,~~ 6 TO BE TRANSPORTED IN A CHILD RESTRAINT SYSTEM. THIS AGENCY IS REQUIRED TO PROVIDE FOR RENTAL A CHILD RESTRAINT SYSTEM IF YOU DO NOT HAVE SUCH A SYSTEM YOURSELF.”

(2) The posted notice specified in paragraph (1) is not required if the car rental agency’s place of business is located in a hotel which has a business policy prohibiting the posting of signs or notices in any area of the hotel. In that case, a car rental agency shall furnish a written notice to each customer which contains the same information as required for the posted notice.

(b) Every such agency shall have available for, and shall, upon request, provide for rental to, adults traveling with children under ~~the age of four, regardless of weight,~~

1 ~~or weighing less than 40 pounds, regardless~~ *six years of*
2 *age, with* child passenger seat restraint systems meeting
3 applicable federal motor vehicle safety standards on the
4 date of the rental transaction, in good and safe condition,
5 with no missing original parts, and not older than five
6 years.

7 (c) A violation of this section is an infraction
8 punishable by a fine of one hundred dollars (\$100).

9 SEC. 7. No reimbursement is required by this act
10 pursuant to Section 6 of Article XIII B of the California
11 Constitution for certain costs that may be incurred by a
12 local agency or school district because in that regard this
13 act creates a new crime or infraction, eliminates a crime
14 or infraction, or changes the penalty for a crime or
15 infraction, within the meaning of Section 17556 of the
16 Government Code, or changes the definition of a crime
17 within the meaning of Section 6 of Article XIII B of the
18 California Constitution.

19 However, notwithstanding Section 17610 of the
20 Government Code, if the Commission on State Mandates
21 determines that this act contains other costs mandated by
22 the state, reimbursement to local agencies and school
23 districts for those costs shall be made pursuant to Part 7
24 (commencing with Section 17500) of Division 4 of Title
25 2 of the Government Code. If the statewide cost of the
26 claim for reimbursement does not exceed one million
27 dollars (\$1,000,000), reimbursement shall be made from
28 the State Mandates Claims Fund.